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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/502,043	01/19/2005	Christophe Delesalle	256213US2PCT	2502
20306 7590 02/23/2009 MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP 300 S. WACKER DRIVE 32ND FLOOR CHICAGO, IL 60606				
EXAMINER				
TRAN, TUNG Q				
ART UNIT		PAPER NUMBER		
2416				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/502,043

Applicant(s)

DELESALLE ET AL.

Examiner

TUNG Q. TRAN

Art Unit

2416

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SG/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 8, 2008 has been entered.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 10-18 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claims 10 and 14 recite new limitations "multiplexing the first and the second flows into a same flow, wherein the first flow is transmitted at least in part via the connectionless network and comprises multimedia control signals distinct from the

messages reserving network resources" (claim 10, lines 10-12; claim 14, lines 11-13). Nowhere in specification describes these limitations in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Any claim not specifically addressed, above, is being rejected as incorporating the deficiencies of a claim upon which it depends.

4. Claims 10-18 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claims 10 and 14 recite new limitations "multiplexing the first and the second flows into a same flow, wherein the first flow is transmitted at least in part via the connectionless network and comprises multimedia control signals distinct from the messages reserving network resources" (claim 10, lines 10-12; claim 14, lines 11-13). Nowhere in specification describes these limitations in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Any claim not specifically addressed, above, is being rejected as incorporating the deficiencies of a claim upon which it depends.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 10-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 10 recites the limitation "the client terminal" and "the content server" in line

9. There is insufficient antecedent basis for this limitation in the claim.

Claim 14 is also rejected for the same reason set forth in claim 10.

Any claim not specifically addressed, above, is being rejected as incorporating the deficiencies of a claim upon which it depends.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 10 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allan et al. (US 6,788,696) in view of Nag et al. (US 2006/0056298) and further in view of Chelehmal et al. (US 2002/0046406).

Allan discloses transparent QoS using VC-merge capable access modules comprising the following features.

Regarding claim 10, a method for transferring (Fig. 2-4) a first flow with a first service quality and at least a second flow transmitted with a second service (see

"unicast or multicast content" recited in col. 6, lines 33-38; "provisioning or signaling VCs" recited in col. 6, lines 51-56; "signaling" recited in col. 7, lines 1-21; and see "QoS capability" recited in col. 5, lines 20-25) comprising: requesting with service quality by exchanging messages (see requesting contents recited in col. 6, lines 33-50; Fig. 3-4) via an ATM network (Fig. 2, ATM network); establishing a high throughput, connection oriented link between the client terminal and the content server (Fig. 2, see connections between CPEs 22a-c and Content Providers 16 through ATM network; and see using DSL recited in col. 5, lines 14-25; Fig. 3-4); multiplexing the first and the second flows into a same flow (Fig. 2, Access Module 12 and VC Merge 26; see "DSLAM" recited in col. 6, lines 5-19; and see merging connections recited in col. 7, lines 25-40); and transmitting the multiplexed same flow to the client terminal through the high throughput, connection oriented link (Fig. 2, see CPEs 22a-c received requested content from Content Providers 16 through Access Module 12 and VC Merge 26 such as flow 11a).

Allen disclosed the claimed limitations above. Allen does not explicitly disclose the following features: regarding claim 10, reserving network resources of a predetermined service quality by exchanging messages via a connectionless network protocol over a connectionless network; establishing connection oriented link in accordance with the network resources reserved by utilization of the connectionless network protocol; wherein the first flow is transmitted at least in part via the connectionless network and comprises multimedia control signals distinct from the messages reserving network resources.

Nag discloses multiplexing several individual application sessions over a pre-allocated reservation protocol session comprising the following features.

Regarding claim 10, reserving network resources of a predetermined service quality by exchanging messages via a connectionless network protocol over a connectionless network (see bandwidth reservation using RSVP recited in [0007], [0087]); establishing connection oriented link in accordance with the network resources reserved by utilization of the connectionless network protocol (see [0007] and [0087]); wherein the first flow comprises control signals distinct from the messages reserving network resources (Fig. 1, Admission Control Signaling 130 different from Reservation Signaling 160).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of Allen by using features, as taught by Nag, in order to efficiently manage network resources and improve quality of services. See [0004-0006].

Allen and Nag disclosed the claimed limitations above. They do not disclose the following features: regarding claim 10, wherein the first flow is transmitted at least in part via the connectionless network and comprises multimedia control signals.

Chelehmal discloses On-demand data system comprising the following features.

Regarding claim 10, wherein the first flow is transmitted at least in part via the connectionless network and comprises multimedia control signals distinct from the messages reserving network resources (see signaling/control signals such as stop, rewind, fast-forward, slow commands recited in the Abstract and Fig. 2; and see RSVP recited in [0038]).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of Allen and Nag by using features, as taught by Chelehmal, in order to provide a video-on-demand system, or more generally, a data-on-demand system that allows a user to access large databases that can be made available from content providers and to display or otherwise make available selected video or other data according to a user's schedule and a system that allows a user to access any large database in an on-demand fashion. See [0005-0006].

Regarding claim 14, it is interpreted and thus rejected for the reasons set forth above in the rejection of claim 10, since claim 14 discloses the system that accomplish the method of claim 10.

9. Claims 11-13, and 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allan et al. (US 6,788,696) in view of Nag et al. (US 2006/0056298) and further in view of Chelehmal et al. (US 2002/0046406) and Baum et al. (US 7,170,905).

Allan, Nag, and Chelehmal disclose the claimed limitations above. In addition, Allan discloses the following features.

Regarding claim 12 and 16, wherein the second flow represents audiovisual data (see "streaming video, Web TV" recited in col. 6, lines 33-36) and the first flow represents signals for controlling the second flow (see "provisioning or signaling VCs" recited in col. 6, lines 51-56; "signaling" recited in col. 7, lines 1-21).

Regarding claim 13, further comprising: connecting the client terminal to a service platform via the Internet network for requesting the audiovisual data (Fig. 2,

Service Gateway 14 and Internet 24; and see requesting contents recited in col. 6, lines 33-50); identifying the content server (see "performing packet snooping" for content source recited in col. 6, lines 45-47); booking, through a control platform (Fig. 2, Service Gateway 14 and Internet 24), network resources with a predetermined service quality between the content server and the client terminal (see requesting contents recited in col. 6, lines 33-50; and see "QoS capability" recited in col. 5, lines 20-25); activating a point-to-point session between the content server and the client terminal with the service quality established previously (Fig. 2, see connections between CPEs 22a-c and Content Providers 16; and see using DSL recited in col. 5, lines 14-25; and see "QoS capability" recited in col. 5, lines 20-25); and broadcasting contents with associated signaling signals to the client terminal through an ATM network (Fig. 2, ATM network 18; and see "unicast or multicast" recited in col. 5, lines 14-25).

Regarding claim 17, wherein the means for establishing an DSL link between the client terminal and the content server (Fig. 2, see connections between CPEs 22a-c and Content Providers 16; and see using DSL recited in col. 5, lines 14-25) includes a digital multiplexer of DSLAM type (Fig. 2, Access Module 12 and VC Merge 26; see "DSLAM" recited in col. 7, lines 5-19) and at least a first ATM switch (Fig. 2, ATM switches 19a-b) for connecting the client terminal to the content server (Fig. 2).

Regarding claim 18, further comprising a first high throughput Broadband Access Server (Fig. 2, Service Gateway 14 and Internet 24) configured to provide a high throughput link via Internet network between the ATM network and a control network (Fig. 2, ATM network 18, Service Gateway 14 and Internet 24), and a second high

throughput BAS server (Fig. 2, Content Providers 16 and Cache Server 28) configured to provide a high throughput link between the client terminal and a server of audiovisual data (Fig. 2, CPEs 22a-c, Content Providers 16).

Chelehmal also discloses the following features.

Regarding claim 12 and 16, wherein the second flow represents audiovisual data (see video data recited in the Abstract, Fig. 2) and the multimedia control signals for controlling the second flow (see signaling/control signals such as stop, rewind, fast-forward, slow commands recited in the Abstract and Fig. 2).

Allan, Nag, and Chelehmal do not disclose the following features: regarding claim 11, 15, and 17, wherein the high throughput, connection oriented link is of xDSL type.

Baum discloses vertical services integration enabled content distribution mechanisms comprising the following features.

Regarding claims 11, 15, and 17, wherein the high throughput, connection oriented link is of xDSL type (see "xDSL technologies" recited in col. 1, lines 53-56).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of Allan, Nag, and Chelehmal by using the features, as taught by Baum, in order to utilize twisted pair wiring from an office or other terminal node of a telephone network to the subscriber premises. See col. 1, lines 57-61.

Response to Arguments

10. Applicant's arguments filed December 8, 2008 on support for new limitations have been fully considered but they are not persuasive. Applicant argued that support

for new limitations ("multiplexing the first and the second flows into a same flow, wherein the first flow is transmitted at least in part via the connectionless network and comprises multimedia control signals distinct from the messages reserving network resources") can be found generally throughout the specification and specifically on at least page 9, lines 6-19 and page 10, lines 7-13 of the specification. In response to applicant's argument, the examiner respectfully disagrees with the argument. Nowhere in specification even in page 9, lines 6-19 and page 10, lines 7-13 discloses ("multiplexing the first and the second flows into a same flow, wherein the first flow is transmitted at least in part via the connectionless network and comprises multimedia control signals distinct from the messages reserving network resources")

11. Applicant's arguments with respect to claims 10-18 rejections under 35 USC 103 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to TUNG Q. TRAN whose telephone number is (571) 272-9737. The examiner can normally be reached on Mon-Fri: 7:30 am - 5 pm, off alternative Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kwang B. Yao can be reached on (571) 272-3182. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/T. Q. T./
Examiner, Art Unit 2416

/Kwang B. Yao/
Supervisory Patent Examiner, Art Unit 2416